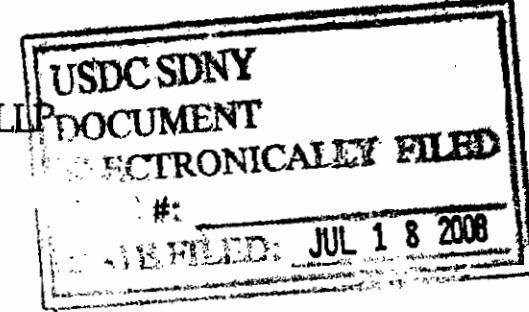


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July 17, 2008

BY FACSIMILE: (212) 805-0426

Hon. Laura Taylor Swain  
United States District Judge  
United States Courthouse  
500 Pearl St., Room 755  
New York, NY 10007

## MEMO ENDORSED

Re: Pediped Infant Footwear LLC v. Kudos Leathergoods Ltd. Case No. 08-CIV-3572 (LTS)

Dear Judge Swain:

We represent the individual Defendant Robert Thomas Buell in the above action. We write to request the Court's assistance in an effort to settle this matter.

This matter is scheduled for a pre-trial conference and a Joint Pre-Trial Statement is scheduled for submission tomorrow. We ask that these events be deferred and that the Court refer this matter to a Magistrate Judge for a settlement conference in the interests of justice.

Our client is an individual defendant, a resident of Canada, and an officer and one of the principals of the Canadian corporation that is named as a defendant in this action. Our client's company independently commissioned the design, and manufactured a small number of children's' shoes, less than 15,000 pair, about which plaintiff complains (plaintiff sells about 1,300,000 pair of their shoes per year).

Our client received a cease and desist letter from the plaintiff. While the defendants were convinced that they had done nothing wrong, they immediately researched the issue and wrote to the plaintiff in an effort to understand and resolve the problem. The plaintiff did not respond to these overtures and, instead, filed suit. The defendants then sought to negotiate a resolution and thought that progress was being made. After defendants had effectively agreed to all terms but one (the issue of a release from additional lawsuits), the plaintiff broke off negotiations. When defendants then sought to accept the offer as proposed by plaintiffs, the offer was withdrawn. In the

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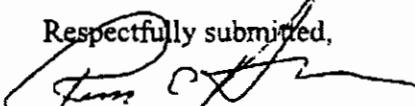
Copies mailed dated 17 July 2008  
Chambers of Judge Swain

Hon. Laura Taylor Swain  
July 17, 2008  
Page 2

interim, the defendants ceased manufacturing the disputed products and ceased distributing them into the U.S.

The defendants are a very small business and an individual who are effectively being blackmailed through the expense and difficulty in fighting a distant litigation. A default judgment has been entered against the corporate defendant, brought about through poor advice of non-U.S. counsel and the defendants' belief that a settlement was virtually concluded. The cost of this litigation dwarfs any reasonable award that plaintiff might achieve, if they were to prevail. Mr. Buell, the individual defendant, is seeking to avert a personal default by answering, but should not be put to the cost and burden of a major litigation on a matter that is all but resolved. As recently as this past Tuesday we were continuing active negotiations in an attempt to resolve this matter when discussions were abruptly broken off by the plaintiff.

We ask that the Court allow us to access the services of the Magistrate Judge to see if a fair and sensible resolution can be expeditiously reached in this case.

Respectfully submitted,  


Robert E. Hanlon

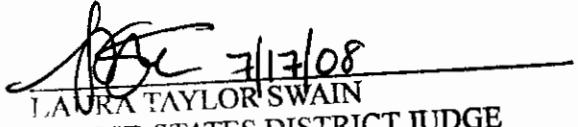
REH:reh

cc: Deborah Wilcox (by facsimile)

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The Matter of a reference to a Magistrate Judge will be taken up at the 7/25 conference. The request to be excused from participating in the preparation of the Joint Pre-trial Statement is denied, as there is no indication that the issue was first raised with opposing counsel as required by the Individual Practices Rules of the undersigned.

SO ORDERED.

  
LAURA TAYLOR SWAIN  
UNITED STATES DISTRICT JUDGE